

DENIED
MOOT

Case Discharged on
October 10, 2018

Oct 23, 2018

Barry S. Schermer
BARRY S. SCHERMER
United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MISSOURI**

In Re:)
)
) Case No. 18-10633-399
)
) Joshua L Walker; Tiffany M Walker a/k/a Tiffany M Sellers,)
) *Debtors*) Chapter: 7
)
) Bank of the West, *Moving Creditor*) **MOTION FOR RELIEF FROM**
) **STAY AND NOTICE OF HEARING**
)
) vs.)
)
) Hearing Date: November 5,
) 2018
) Joshua L Walker; Tiffany M Walker a/k/a Tiffany M Sellers,)
) *Debtor*) Hearing Time: 1:45 pm
) Location: Cape Girardeau
) and) Courthouse
) COURTROOM A
) Tom K. O'Loughlin, *Trustee*) **555 S. Independence Street**
Cape Girardeau, MO 63701

Michael P. Gaughan, Esq.
Daniel A. West, #98415
Wendee Elliott-Clement, MBE
#50311
Lisa C. Billman, MBE #64535
13160 Foster Suite 100
Overland Park, KS 66213-2660
(913) 663-7600

MOTION FOR ORDER MODIFYING AUTOMATIC STAY
COMBINED WITH NOTICE OF HEARING

WARNING: THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE BY OCTOBER 29, 2018. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. THE DATE IS SET OUT ABOVE. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING. REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEYS.

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COMES NOW, Bank of the West, ts subsidiaries, affiliates, predecessors in interests, successors or assigns, (“Movant”), and in support of its motion, states as follows:

1. Joshua L Walker, and Tiffany M Walker, Debtors, are indebted to Bank of the West in the sum of \$44,766.67 plus interest. Debtors’ debt is secured by a first, prior and duly perfected security interest in, to and against 2015 Ram 2500 VIN:3C6UR5DL9GG141185. (the “collateral”) Debtors’ debt, Movant’s interest, and the perfection of Movant’s security interest are evidenced by the documents which are listed on the Summary of Exhibits and attached hereto.

2. The Movant’s interest in and to the Collateral is not adequately protected and the Movant will sustain irreparable harm, loss, damage and prejudice if the automatic stay imposed by Section 362(a) of the Bankruptcy Code is not modified as hereinafter prayed. In particular:

(a) The Debtors are past due for the June 27, 2018 payment and all payments thereafter for a total delinquency of \$2,225.01 plus interest, excluding to the extent of any applicable late charges, attorney fees and/or attorney costs or other fees or costs included herein in the Contract and Security Agreement.

(b) The Collateral is secured beyond its value of \$32,168.00 and the estate has no equity therein, based upon the value/as listed on Schedule D of Debtors’ Schedules.

(c) The Debtors’ Statement of Intention provides that the Collateral is to be surrendered

3. **WHEREFORE**, Movant, its successors or assigns, respectfully requests the Court to enter, among others, the following orders:

(a) An order modifying the automatic stay for the purpose of allowing Movant to repossess and sell the collateral and to apply all proceeds therefrom to the Debtors’ debt;

(b) An order waiving the 14-day stay imposed by Bankruptcy Rule 4001(a)(3).

(c) An order granting such other and further relief as the Court deems just

SOUTHLAW, P.C.

/s/ Michael P Gaughan

Michael P Gaughan (MBE #31121; EDMO #93625; KSFD #70125)

Daniel A. West (MBE #48812; EDMO #98415; KSFD #70587)

13160 Foster, Suite 100

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ATTORNEYS FOR MOVANT

CERTIFICATE OF MAILING/SERVICE

The undersigned certifies that the foregoing document was served on September 6, 2018 electronically to those parties who have entered an appearance in the Court's Electronic Court Filing (ECF) System (Counsel and Trustee) and conventionally, via first-class mail, postage prepaid, to the Debtor(s) at the following address

SOUTHLAW, P.C.

/s/ Michael P Gaughan

Michael P Gaughan (MBE #31121; EDMO #93625; KSFD #70125)

Daniel A. West (MBE #48812; EDMO #98415; KSFD #70587)

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ATTORNEYS FOR MOVANT

Joshua L Walker

Tiffany M Walker

HC 3 Box 201

Ellsinore, MO 63937

DEBTORS

Jennifer Hackworth Thompson

Hackworth, Ferguson & Thompson, LLC

1401 North Main St.

Suite 200

Sikeston, MO 63801

ATTORNEY FOR DEBTORS

Tom K. O'Loughlin

1736 N. Kingshighway

Cape Girardeau, MO 63701

TRUSTEE

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MISSOURI AT CAPE GIRARDEAU**

In Re:)	
)	
Joshua L Walker; Tiffany M Walker a/k/a Tiffany M Sellers, <i>Debtors</i>)	Case No. 18-10633-399
)	
Bank of the West, <i>Moving Creditor</i>)	Chapter: 7
)	
vs.)	MOTION FOR RELIEF FROM STAY AND NOTICE OF HEARING
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Joshua L Walker; Tiffany M Walker a/k/a Tiffany M Sellers, <i>Debtors</i>)	Hearing Date: November 5, 2018
)	Hearing Time: 1:45 pm
and)	Location: Cape Girardeau
)	Courthouse
Tom K. O'Loughlin, <i>Trustee</i>)	COURTROOM A
)	555 S. Independence Street Cape Girardeau, MO 63701
		Michael P. Gaughan, Esq.
		Daniel A. West, #98415
		Wendee Elliott-Clement, MBE
		#50311
		Lisa C. Billman, MBE #64535
		13160 Foster Suite 100
		Overland Park, KS 66213-2660
		(913) 663-7600

SUMMARY OF EXHIBITS AND CERTIFICATE OF SERVICE

Pursuant to L.B.R. 9040-1, the following exhibits to the Motion for Order Modifying Automatic Stay are filed herewith and mailed via regular first class mail to the Debtors:

1. Retail Installment Contract/Security Agreement dated November 30, 2016
2. Notice of Lien

Respectively submitted,

SOUTHLAW, P.C.

/s/ Michael P Gaughan

Michael P Gaughan (MBE #31121; EDMO #93625; KSFD #70125)

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michael.gaughan@southlaw.com

ATTORNEYS FOR MOVANT

I certify that a true copy of the Attached Pleading was served electronically upon counsel and the trustee and via first class mail on September 6, 2018 upon the Debtors at the following address
:

Joshua L Walker

Tiffany M Walker

HC 3 Box 201

Ellsinore, MO 63937

DEBTORS

Jennifer Hackworth Thompson

Hackworth, Ferguson & Thompson, LLC

1401 North Main St.

Suite 200

Sikeston, MO 63801

ATTORNEY FOR DEBTORS

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